SUPREME COURT
THIRD DIVISION

SANNY B. GINETE,
***Petitioner*,**

-versus-

G.R. No. 142023
June 21, 2001

SUNRISE MANNING AGENCY, SUMMER WIND SHIPPING CO./TRUST CARRIER S.A. & NATIONAL LABOR RELATIONS COMMISSION,
***Respondents*.**
x----------x

D E C I S I O N

GONZAGA-REYES, *J.*:

Before this Court is a Petition for Review under Rule 45 seeking to set aside the Resolution dated October 12, 1999 of the Court of Appeals dismissing the Petition for Certiorari filed in CA-G.R. SP No. 54858 and the Resolution dated February 4, 2000 denying the motion for reconsideration.

It appears that on July 7, 1997, petitioner Sanny Ginete filed a complaint charging respondents Sunrise Manning Agency and Summer Wind Shipping Co./Trust Carrier SA. with illegal dismissal and claiming payment of wages plus interest for the unexpired

portion of his employment contract with them. The Labor Arbiter dismissed the complaint but ordered private respondents to pay petitioner P5,000 as damages for violation of due process requirement of notice and hearing. On appeal, the National Labor Relations Commission (NLRC) affirmed the decision of the Labor Arbiter which decision was received by petitioner on March 16, 1999. On March 25, 1999, petitioner filed a Motion for Reconsideration. Said motion was denied in the Resolution of April 27, 1999 which was received by petitioner's counsel on June 21, 1999 and by petitioner himself on July 22, 1999. On September 10, 1999, petitioner filed a motion for extension to file petition and the Court of Appeals granted an extension of fifteen (15) days from September 11, 1999 or until September 26, 1999 (Sunday) within which to file the petition, conditioned upon the timeliness of its filing. On September 27, 1999 (Monday), the petition for certiorari was filed. The Court of Appeals denied the petition for being filed 30 days late, counted from receipt on June 21, 1999 by petitioner's counsel of the NLRC-resolution. The Motion for Reconsideration thereto was denied.

Hence, the present petition.

Petitioner contends that the Court of Appeals erred in holding that the petition for certiorari was filed out of time. He argues that in labor cases, both the party and his counsel must be duly served their separate copies of the order, decision or resolution unlike in ordinary proceedings where notice to counsel is deemed notice to the party. Since petitioner himself received his copy of the assailed NLRC Resolution only on July 22, 1999, the period for filing the petition should be counted from said date and not on June 21, 1999 when petitioner's counsel received a copy of the said NLRC Resolution denying petitioner's motion for reconsideration. Petitioner further contends that he was denied due process of law when the petition was dismissed on very rigid technical rules thus violating the constitutional injunction to protect overseas Filipino workers.

The petition is devoid of merit.

Petitioner invokes Article 224 of the Labor Code which provides, to wit:

"ARTICLE 224: Execution of decisions, orders or awards. — (a) the Secretary of Labor and Employment or any Regional Director, the Commission or any Labor Arbiter, or med-arbiter or voluntary arbitrator may, motu proprio or on motion of any interested party, issue a writ of execution on a judgment within five (5) years from the date it becomes final and executory, requiring a sheriff or a duly deputized officer to execute or enforce final decisions, orders or awards of the Secretary of Labor and Employment or regional Director, the Commission, the Labor Arbiter or Med-Arbiter, or Voluntary Arbitrators. In any case, it shall be the duty of the responsible officer to separately furnish immediately the counsels of record and the parties with copies of said decisions orders or awards. Failure to comply with the duty prescribed herein shall subject such responsible officer to appropriate administrative sanctions. x x x "*(Emphasis supplied).*

The case of PNOC Dockyard and Engineering Corporation vs. NLRC[1] cited by petitioner enunciated that "in labor cases, both the party and its counsel must be duly served their separate copies of the order, decision or resolution; unlike in ordinary judicial proceedings where notice to counsel is deemed notice to the party." Reference was made therein to Article 224 of the Labor Code. But, as correctly pointed out by private respondent in its Comment to the petition, Article 224 of the Labor Code does not govern the procedure for filing a petition for certiorari with the Court of Appeals from the decision of the NLRC but rather, it refers to the execution of "final decisions, orders or awards" and requires the sheriff or a duly deputized officer to furnish both the parties and their counsel with copies of the decision or award for that purpose. There is no reference, express or implied, to the period to appeal or to file a petition for certiorari as indeed the caption is "execution of decisions, orders or awards". Taken in proper context, Article 224 contemplates the furnishing of copies of "final decisions, orders or awards" and could not have been intended to refer to the period for computing the period for appeal to the Court of Appeals from a non-final judgment or order. The period or manner of "appeal" from the NLRC to the Court of Appeals is governed by Rule 65 pursuant to the ruling of the Court in the

> case of St. Martin Funeral Homes vs. NLRC.[2] Section 4 of Rule 65, as amended, states that the "petition may be filed not later than sixty (60) days from notice of the judgment, or resolution sought to be assailed".

Corollarily, Section 4, Rule III of the New Rules of Procedure of the NLRC expressly mandates that "(F)or the purpose(s) of computing the period of appeal, the same shall be counted from receipt of such decisions, awards or orders by the counsel of record." Although this rule explicitly contemplates an appeal before the Labor Arbiter and the NLRC, we do not see any cogent reason why the same rule should not apply to petitions for certiorari filed with the Court of Appeals from decisions of the NLRC. This procedure is in line with the established rule that notice to counsel is notice to party and when a party is represented by counsel, notices should be made upon the counsel of record at his given address to which notices of all kinds emanating from the court should be sent.[3] It is to be noted also that Section 7 of the NLRC Rules of Procedure provides that "(A)ttorneys and other representatives of parties shall have authority to bind their clients in all matters of procedure"‘ a provision which is similar to Section 23, Rule 138 of the Rules of Court.[4] More importantly, Section 2, Rule 13 of the 1997 Rules of Civil Procedure analogously provides that if any party has appeared by counsel, service upon him shall be made upon his counsel.

Petitioner's contention of denial of due process is bereft of merit as he was given reasonable opportunity to present his side. From the Labor Arbiter, he appealed to the NLRC and thereafter filed a motion for reconsideration thereto. He had the remedy of a petition for certiorari before the Court of Appeals but the same should have been filed in accordance with established procedure, which petitioner unfortunately failed to comply with. Due process simply demands an opportunity to be heard and this opportunity was not denied petitioner.[5]

WHEREFORE, the petition for review is hereby **DENIED** for lack of merit.

SO ORDERED.

Melo, Vitug, Panganiban and Sandoval-Gutierrez, *JJ.*, concur.

---

[1] 291 SCRA 231.
[2] 295 SCRA 494 (En Banc).
[3] Rural Bank of Alaminos Employees Union vs. NLRC, 317 SCRA 669.
[4] SEC. 23. Authority of attorneys to bind clients. — Attorneys have authority to bind their clients in any case by any agreement in relation thereto made in writing, and in taking appeals, and in all matters of ordinary procedure x x x"
[5] Ramos vs. NLRC, 298 SCRA 225.
